

1 **PARTIES**

2 5. Plaintiff Ryan Dorgan is an individual who is a citizen of the State of Indiana
3 and maintains a principal place of business in Jackson, Wyoming in Teton County.

4 6. Upon information and belief, Defendant SVJ Designs, LLC, is a Wisconsin
5 limited liability company with a principal place of business at 6005 South Karrington Lane,
6 New Berlin in Waukesha County, Wisconsin.
7

8 **JURISDICTION AND VENUE**

9 7. This Court has subject matter jurisdiction over the federal copyright
10 infringement claims pursuant to 28 U.S.C. §1338(a) and 28 U.S.C. §1331.

11 8. This Court has personal jurisdiction over SVJ Designs, LLC because it
12 maintains its principal place of business in Wisconsin.

13 9. Venue is proper under 28 U.S.C. §1391(a)(2) because SVJ Designs, LLC does
14 business in this Judicial District and/or because a substantial part of the events or omissions
15 giving rise to the claim occurred in this Judicial District.
16

17 **FACTS COMMON TO ALL CLAIMS**

18 10. Plaintiff is a professional photographer who is the legal and rightful owner of
19 photographs which Plaintiff licenses to online and print publications.

20 11. Plaintiff has invested significant time and money in building Plaintiff's
21 photograph portfolio.
22

23 12. Plaintiff has obtained active and valid copyright registrations from the United
24 States Copyright Office (the "USCO") which cover many of Plaintiff's photographs while many
25 others are the subject of pending copyright applications.

26 13. Plaintiff's photographs are original, creative works in which Plaintiff owns
27
28

protectable copyright interests.

14. SVJ Designs, LLC is the registered owner of the Website and is responsible for its content.

15. SVJ Designs, LLC is the operator of the Website and is responsible for its content.

16. The Website is a popular and lucrative commercial enterprise.

17. The Website is monetized in that it contains paid advertisements and, upon information and belief, Defendant profits from these activities.

18. On June 23, 2021, Plaintiff authored a photograph of the Jackson Hole Twin Cinema in Jackson Hole, Wyoming (the "*Photograph*"). A copy of the Photograph is attached hereto as Exhibit 1.

19. Plaintiff applied to the USCO to register the Photograph on or about July 6, 2021 under Application No. 1-10634075501.

20. The Photograph was registered by the USCO on July 6, 2021 under Registration No. VA 2-259-896.

21. On December 6, 2021, Plaintiff first observed the Photograph on the Website. Copies of the screengrabs of Website including the Photograph is attached hereto collectively as Exhibit 2.

22. The Photograph was displayed at the following URLs:

<https://www.bigscreen.com/Marquee.php?theater=7146&view=contact;>

<https://www.bigscreen.com/Marquee.php?theater=7146&view=photos;>

<https://www.bigscreen.com/Marquee.php?theater=7146&view=ticketprices;>

<https://www.bigscreen.com/Marquee.php?theater=7146&view=giftcards;>

1 <https://www.bigscreen.com/Marquee.php?theater=7146&view=sched;>
2 <https://www.bigscreen.com/Marquee.php?theater=7146&view=dining;>
3 <https://www.bigscreen.com/Marquee.php?theater=7146&view=journal;>
4 <https://www.bigscreen.com/Marquee.php?theater=7146&view=map;> and at
5 [https://www.bigscreen.com/PhotoGallery.php?type=theater&id=7146&photo=photo_202107](https://www.bigscreen.com/PhotoGallery.php?type=theater&id=7146&photo=photo_20210701161045.jpg)
6 [01161045.jpg.](https://www.bigscreen.com/PhotoGallery.php?type=theater&id=7146&photo=photo_20210701161045.jpg)
7

8 23. The Photograph is stored at URL:
9 <https://www.bigscreen.com/Graphics/Theaters/7146.jpg>.

10 24. Without permission or authorization from Plaintiff, Defendant volitionally
11 selected, copied, stored and/or displayed Plaintiff's copyright protected Photograph as is set
12 forth in Exhibit "1" on the Website.

13 25. Upon information and belief, the Photograph was copied, stored and displayed
14 without license or permission, thereby infringing on Plaintiff's copyrights (hereinafter
15 singularly the "*Infringement*," and collectively the "*Infringements*").

16 26. Each Infringement includes a URL ("*Uniform Resource Locator*") for a fixed
17 tangible medium of expression that was sufficiently permanent or stable to permit it to be
18 communicated for a period of more than a transitory duration and therefore constitutes a specific
19 infringement. *17 U.S.C. §106(5)*.

20 27. The Infringements are exact copies of the entirety of Plaintiff's original image
21 that were directly copied and stored by Defendant on the Website.

22 28. Upon information and belief, Defendant takes an active and pervasive role in the
23 content posted on its Website, including, but not limited to copying, posting, selecting,
24 commenting on and/or displaying images including but not limited to Plaintiff's Photograph.
25
26
27
28

1 29. Upon information and belief, the Photograph was willfully and volitionally
2 posted to the Website by Defendant.

3 30. Upon information and belief, Defendant is not registered with the United States
4 Copyright Office pursuant to 17 U.S.C. §512.

5 31. Upon information and belief, Defendant engaged in the Infringement knowingly
6 and in violation of applicable United States Copyright Laws.

7 32. Upon information and belief, Defendant has the legal right and ability to control
8 and limit the infringing activities on its Website and exercised and/or had the right and ability
9 to exercise such right.

10 33. Upon information and belief, Defendant monitors the content on its Website.

11 34. Upon information and belief, Defendant has received a financial benefit directly
12 attributable to the Infringement.

13 35. Upon information and belief, the Infringement increased traffic to the Website
14 and, in turn, caused Defendant to realize an increase in its advertising and/or subscription
15 revenues.

16 36. Upon information and belief, a large number of people have viewed the unlawful
17 copies of the Photograph on the Website.

18 37. Upon information and belief, Defendant at all times had the ability to stop the
19 reproduction and display of Plaintiff's copyrighted material.

20 38. Defendant's use of the Photograph, if widespread, would harm Plaintiff's
21 potential market for the Photograph.

22 39. As a result of Defendant's misconduct, Plaintiff has been substantially harmed.

1 **FIRST COUNT**

2 ***(Direct Copyright Infringement, 17 U.S.C. §501 et seq.)***

3 40. Plaintiff repeats and incorporates by reference the allegations contained in the
4 preceding paragraphs, as though set forth in full herein.

5 41. The Photograph is an original, creative work in which Plaintiff owns valid
6 copyrights properly registered with the United States Copyright Office.

7 42. Plaintiff has not licensed Defendant the right to use the Photograph in any
8 manner, nor has Plaintiff assigned any of its exclusive rights in the copyrights to Defendant.

9 43. Without permission or authorization from Plaintiff and in willful violation of
10 Plaintiff's rights under 17 U.S.C. §106, Defendant improperly and illegally copied, stored,
11 reproduced, distributed, adapted, and/or publicly displayed works copyrighted by Plaintiff
12 thereby violating one of Plaintiff's exclusive rights in its copyrights.

13 44. Defendant's reproduction of the Photograph and display of the Photograph
14 constitutes willful copyright infringement. *Feist Publications, Inc. v. Rural Telephone Service*
15 *Co., Inc.*, 499 U.S. 340, 361 (1991).
16

17 45. Plaintiff is informed and believes and thereon alleges that the Defendant
18 willfully infringed upon Plaintiff's copyrighted Photograph in violation of Title 17 of the U.S.
19 Code, in that they used, published, communicated, posted, publicized, and otherwise held out
20 to the public for commercial benefit, the original and unique Photograph of the Plaintiff without
21 Plaintiff's consent or authority, by using it in the infringements on the Website.
22

23 46. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is
24 entitled to an award of actual damages and disgorgement of all of Defendant's profits
25 attributable to the infringements as provided by 17 U.S.C. § 504 in an amount to be proven or,
26 in the alternative, at Plaintiff's election, an award for statutory damages against Defendant for
27
28

each infringement pursuant to 17 U.S.C. § 504(c).

47. As a result of the Defendant's violations of Title 17 of the U.S. Code, the court in its discretion may allow the recovery of full costs as well as reasonable attorney's fees and costs pursuant to 17 U.S.C. § 505 from Defendant.

48. As a result of Defendant's violations of Title 17 of the U.S. Code, Plaintiff is entitled to injunctive relief to prevent or restrain infringement of his copyright pursuant to 17 U.S.C. § 502.

JURY DEMAND

49. Plaintiff hereby demands a trial of this action by jury.

PRAYER FOR RELIEF

WHEREFORE Plaintiff respectfully requests judgment as follows:

That the Court enters a judgment finding that Defendant has infringed upon Plaintiff's rights to the Photograph in violation of 17 U.S.C. §501 et seq. and award damages and monetary relief as follows:

- a. finding that Defendant infringed upon Plaintiff's copyright interest in the Photograph by copying and displaying without a license or consent;
- b. for an award of actual damages and disgorgement of all of Defendant's profits attributable to the infringements as provided by 17 U.S.C. § 504 in an amount to be proven or, in the alternative, at Plaintiff's election, an award for statutory damages against Defendant for each infringement pursuant to 17 U.S.C. § 504(c), whichever is larger;
- c. for an order pursuant to 17 U.S.C. § 502(a) enjoining Defendant from any infringing use of any of Plaintiff's works;

- d. for costs of litigation and reasonable attorney's fees against Defendant pursuant to 17 U.S.C. § 505;
- e. for pre judgment interest as permitted by law; and
- f. for any other relief the Court deems just and proper.

DATED: May 16, 2023

SANDERS LAW GROUP

By: /s/ Craig B. Sanders
Craig B. Sanders, Esq.
333 Earle Ovington Blvd., Suite 402
Uniondale, NY 11553
Tel: (516) 203-7600
Email: csanders@sanderslaw.group
File No.: 124304

Attorneys for Plaintiff